

# KANSAS WATERSHED DISTRICT ACT

## Article 12 – WATERSHED DISTRICTS

### Cross References to Related Sections:

Agreements with cities, see 12-635, 12-638.

**12-635. Authorization of improvements within or without city limits; eminent domain; federal cooperation; agreements with watershed or drainage districts.** The governing body of any city of the state of Kansas in, near or through which flows a natural watercourse, the overflow from which, in the event of high water, is liable to cause injury to any bridge, street, alley or public or private property may, in order to prevent said injury, acquire by eminent domain in the manner prescribed by K.S.A. 26-501 to 26-516, inclusive, and amendments thereto, gift or purchase, within said city limits or within ten (10) miles therefrom, the land and easements necessary: (a) To construct drains, canals and artificial watercourses, (b) to widen and straighten existing drains and watercourses, (c) to construct the necessary levees and embankments, (d) to change and raise the grade of streets and alleys and the approaches to bridges, and raise said bridges, or construct bridges where necessary, (e) to widen existing drains, channels and canals, and acquire the necessary outlets therefor beyond the limits of the city, or (f) to cause any and all other necessary work, construction and improvements to be made to protect said city and public and private property therein located from floods and damage by overflow of said natural and artificial watercourses.

The governing body of any city proceeding under this act is hereby authorized: (a) To enter into contracts or agreements with the United States army corps of engineers or any other agency or agencies of the federal government that may be necessary in order to cooperate with the federal government and its agencies; and such contract or agreement shall provide that the city will maintain, repair and operate the flood control works; (b) to enter into contracts or agreements to furnish all of the necessary lands, rights-of-way and easements without cost to the federal government; (c) to enter into contracts or agreements relieving the federal government from any liability and damage to persons or property resulting from construction of the flood control works

or resulting after the completion thereof; (d) to enter into contracts or agreements with watershed or drainage districts that may be necessary in order to cooperate with such watershed or drainage districts in matters relating to flood control and drainage. No provision of this act shall be construed to affect the power of drainage districts now organized under the provisions of chapter 24, of the Kansas Statutes Annotated, and amendments thereto.

**History:** L. 1917, ch. 87, § 1; R.S. 1923, § 12-635; L. 1925, ch. 95, § 1; L. 1929, ch. 107, § 1; L. 1937, ch. 114, § 1; L. 1943, ch. 86, § 1; L. 1947, ch. 109, § 1; L. 1953, ch. 61, § 1; L. 1963, ch. 234, § 21; L. 1978, ch. 57, § 1; March 28.

**12-638. Same; eminent domain proceedings; advertising for bids.** Upon the approval of the engineer's report by the governing body of the city and the division of water resources, the governing body of the city, if property is to be condemned, shall proceed to exercise the power of eminent domain in accordance with K.S.A. 26-501 through 26-516, and amendments thereto, and shall have the right to advertise for bids and enter into a contract for the improvements. Whenever a contract or agreement has been entered into by the United States army corps of engineers or any other federal agency or agencies and the city, or by a watershed or drainage district and the city, or the federal agency or agencies or a watershed or drainage district is willing to enter into the contract with the governing body of the city, for the construction of flood control improvements, the governing body of the city shall not be required to advertise for bids for the construction of the flood control works.

**History:** L. 1917, ch. 87, § 4; R.S. 1923, § 12-638; L. 1947, ch. 109, § 2; L. 1953, ch. 61, § 2; L. 1963, ch. 234, § 22; L. 1978, ch. 57, § 2; L. 1995, ch. 116, § 3; July 1.

**Governmental Ethics Commission Opinions:**

Watershed districts; contracting officers; duties; qualifications; restrictions; definitions; watershed district is not a state agency but is a governmental subdivision. 94-29.

**Attorney General's Opinions:**

Formation of watershed districts; elections; qualified voters. 94-36.

Use of district funds to administer and cost-share water quality projects. 98-52.

**FORMATION OF WATERSHED DISTRICTS**

**24-1201. Title of act.** This act shall be known as the watershed district act.

**History:** L. 1953, ch. 477, § 1; June 30.

**Attorney General's Opinions:**

Assignment of liability for damages caused by works of improvement. 86-158.

Watershed district act; proposed districts; qualified voters. 88-51.

KOMA-applicability or rural water districts. 88-97.

Watershed districts; judicial actions affecting conservation easements; modification or termination by court. 93-76.

Formation of watershed districts; authority of secretary of state. 93-85.

**24-1201a. Declaration of public necessity for creation of districts; power; benefits.** It is recognized that serious problems of water management resulting from erosion, floodwater or sediment damages or instability of natural water supplies are arising in the watersheds of the rivers and streams of the state of Kansas; that for the purpose of alleviating such damages and furthering the conservation, development, utilization and disposal of water and thereby preserving and protecting the state's land and water resources, it is legislatively determined that it is necessary and advisable to establish watershed districts with the power to construct, operate and maintain works of improvement needed to carry out such purposes; that there is hereby declared the public necessity for the

creation of such districts in watersheds including lands that are subject to erosion, floodwater or sediment damages or that would be benefited by the construction of works of improvement for the conservation, development, utilization and disposal of water; and that it is further declared that the formation of such districts will inure to the general benefit of all of the taxable, tangible property included therein.

**History:** L. 1961, ch. 193, § 2; July 1.

**Attorney General's Opinions:**

Assignment of liability for damages caused by works of improvement. 86-158.

Use of watershed district funds. 87-85. (See 87-99.)

Sale or transfer of watershed district property to a governmental entity for recreational purposes is permissible. 87-122.

**24-1202. Definitions.** The following terms when used in this act shall be construed to have the meaning ascribed to them in this section:

(a) "Person" shall mean any person, firm, partnership, association or corporation;

(b) "publication" shall mean the publication in a newspaper or newspapers admitted to the United States mail as second-class matter, of general circulation within the watershed district;

(c) "land" shall mean real property as that term is defined by the laws of the state of Kansas, and shall include any road, highway, bridge, street or other right-of-way;

(d) "chief engineer" shall mean the chief engineer of the division of water resources of the Kansas state board of agriculture;

(e) "board" shall mean the board of directors of a watershed district;

(f) "district" shall mean an area comprising a watershed or two or more adjoining watersheds exclusive of lands within other organized watershed districts for which organization is proposed or which has been organized under the provisions of article 12 of chapter 24 of the Kansas Statutes Annotated, and acts amendatory thereof or supplemental thereto: *Provided*, That such district shall not include the territorial limits of any incorporated city unless the petition circulated and filed as provided for in article 12 of chapter 24 of the Kansas Statutes Annotated,

and acts amendatory thereof or supplemental thereto, shall clearly indicate that the territory of such a city is to be included in such watershed district;

(g) "specific project" means any project outlined and proposed by the directors and may constitute all or part of a general plan;

(h) "watershed" shall mean all of the area within the state draining toward a selected point on any watercourse, stream, lake or depression;

(i) "subwatershed" shall mean a division of the district as nearly equal in size to other divisions of the district as feasible and including as nearly as practicable one or more tributaries to the main stream which drains from the district;

(j) "qualified voter" shall mean any qualified elector of the district and any person eighteen (18) years of age or over owning land within the district, although not a resident therein;

(k) "landowner" shall mean the record owner of the fee in any real estate in the district or the fee in the surface rights of any real estate in the district, but the owners of an oil and gas lease, mineral rights or interest, easements or mortgages as such shall not be considered landowners, and school districts, cemetery associations and municipal corporations shall not be considered landowners;

(l) "steering committee" shall be the group of qualified voters, not less than the number to be chosen for the board of directors, who shall serve as the governing body of the proposed watershed district until the first board of directors is elected;

(m) "general plan" shall mean a preliminary engineering report describing the characteristics of the district, the nature and methods of dealing with the soil and water problems within the district, and the projects proposed to be undertaken by the district. It shall include maps, descriptions and such other data as may be necessary for the location, identification and establishment of the character of the work to be undertaken and such other data and information as the chief engineer may require.

**History:** L. 1953, ch. 477, § 2; L. 1955, ch. 201, § 1; L. 1959, ch. 172, § 1; L. 1961, ch. 193, § 1; L. 1972, ch. 124, § 4; Feb. 22.

#### **Attorney General's Opinions:**

Watershed district act; proposed districts; qualified voters. 88-51.

#### **24-1203. Establishment of district by petition.**

Except as otherwise provided by K.S.A. 24-1203a, before any watershed district shall be organized, a petition shall be filed in the office of the secretary of state, signed by not less than 20% of the landowners and representing 25% of the acreage within said proposed district as shown by a verified enumeration of said landowners taken by a landowner of said proposed district to be selected by the first 10 signers of the petition. A verified copy of such enumeration shall be attached to and filed with the petition in the office of the secretary of state. For purposes of determining ownership, the county clerk of the county in which any part of the watershed is described, upon demand, shall furnish the record of the ownership of the lands within the county from the tax rolls of the county, and such record of ownership shall be satisfactory evidence of title.

**History:** L. 1953, ch. 477, § 3; L. 1955, ch. 201, § 2; L. 1959, ch. 172, § 2; L. 1995, ch. 210, § 5; May 4.

**24-1203a. Establishment of district initiated by board of county commissioners.** (a) In lieu of the procedures provided by K.S.A. 24-1203, 24-1204 and 24-1205, and amendments thereto, the board of county commissioners of any county may adopt a resolution proposing the establishment of one or more watershed districts within the county and appointing the steering committee of each proposed district if:

(1) The lands within each proposed district comprise substantially a watershed or two or more adjoining watersheds, as determined by the chief engineer; and

(2) in the preceding five-year period, the governor has issued a proclamation declaring a state of disaster emergency in the county due to flooding.

(b) The resolution shall contain the information required for a petition under K.S.A. 12-1204, and amendments thereto, and shall have appended and incorporated by reference a map showing the lands to be included in each proposed district and the subwatersheds therein, prepared in consultation with the chief engineer.

Upon adoption of such resolution, the county commission shall transmit a certified copy of the resolution to the chief engineer.

(c) All costs of projects and works of a watershed district established under this section shall

be paid by a general levy against all taxable tangible property located within the district.

(d) This section shall be part of and supplemental to the watershed district act.

**History:** L. 1995, ch. 210, § 4; May 4.

**24-1204. Contents of petition; form.** The petition required by K.S.A. 24-1203, and amendments thereto, shall set forth:

(1) The proposed name of the district, which name shall end with the words "watershed district number \_\_\_\_\_." If the district is located in two or more counties the name of the district shall end with the words "watershed joint district No. \_\_\_\_\_." It shall be the duty of the secretary of state to assign a number to each such district in the order in which petitions for their organization are received thereby.

(2) A description of the lands to be included within the proposed district, separated as to subwatersheds, if any, and identified by section numbers and fractions thereof, and other platted areas as appropriate.

(3) A statement of the purposes for which the district is to be organized.

(4) A statement of the number of persons that will constitute the board of directors of the district, which shall be an uneven number of not less than three and not more than 15, together with the names and addresses of the persons who will constitute the original steering committee.

(5) Any other matter deemed essential.

(6) A prayer for the organization of the districts as a nonprofit corporation.

A map showing the lands to be included in the district and subwatersheds therein, prepared in consultation with the chief engineer, shall be attached to the petition as an exhibit and incorporated therein by reference. The petition shall be in substantially the following form:

Before the Secretary of State  
of the State of Kansas

In the Matter of \_\_\_\_\_ Watershed (Joint)  
District Number \_\_\_\_\_, \_\_\_\_\_ and \_\_\_\_\_  
counties, Kansas.

#### PETITION

Come now the undersigned persons and state that they are landowners within the proposed boundaries

of the aforementioned watershed district, hereinafter more fully described, and that each signer states that the signer's respective post-office address is set forth beside the signer's name. That the purposes for which this district is organized are (state purposes). That a steering committee for the organization of the district is hereby fixed and constituted with \_\_\_\_\_ members; that the names of persons who will serve on the original steering committee, of which the first named shall be acting chairman, and their respective addresses are as follows:

(List names and addresses.)

The governing body of the district shall be constituted in a board of directors composed of (number) qualified voters.

That attached hereto, marked Exhibit A and made a part hereof as fully as if set forth herein, is a map showing the lands proposed to be included in the district and subwatersheds therein:

That the lands proposed to be included in the district and subwatersheds therein are described as follows:

(Description of lands by subwatersheds.)

That the lands proposed to be included in the district and subwatersheds therein do not embrace the territorial limits of any incorporated city, or any part thereof, except those specifically described in the petition.

Wherefore, the undersigned, individually and collectively, pray that a watershed district be organized in the manner provided by law, for the purposes set forth herein, and that the secretary of state and the chief engineer of the division of water resources of the Kansas state board of agriculture proceed diligently in the performance of their duties so that the organization of this proposed district may be completed and approved at the earliest possible time.

Submitted to the secretary of state this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

**History:** L. 1953, ch. 477, § 4; L. 1955, ch. 201, § 3; L. 1957, ch. 226, § 1; L. 1959, ch. 172, § 3; L. 1961, ch. 193, § 4; L. 1987, ch. 122, § 1; July 1.

**24-1205. Petition, circulation; inclusion of city or part thereof within proposed boundaries, identification; filing and determination of sufficiency of petition.** A counterpart of the petition, setting forth the text of the petition in full, shall be circulated within the proposed boundaries of the district: *Provided*, That when an incorporated city, or

any part thereof, included as a part of the lands within the proposed boundaries of the district and not excluded by reference therein, the naming of the city, and [class] thereof, and a statement as to what part or all of the lands within said city are to be included within the proposed boundaries of said district, shall be sufficient identification within said petition, and approval of said watershed district formation shall be by election duly called by the governing body of said city for such purpose of approval or disapproval by the qualified voters of the area in said city sought to be included in said watershed district, and if approved by vote, the mayor of said city shall be directed to sign said petition as representative of said land within said city limits and for the total of said lands encompassed therein and if disapproved by the qualified voters therein, the city, or part thereof, shall be excluded from the district.

A duplicate original or a photographic copy of the original petition, with copies of all signature sheets attached thereto, shall be furnished to the county clerk of each county wherein lies a part of the proposed district. All counterparts shall be filed with the secretary of state at the same time and shall be received and treated by him as a single petition. The secretary of state shall determine the sufficiency or insufficiency of the petition on the basis of the information as to the number and qualification of signers as shown by the verified enumeration filed with the petition. In the making of such findings, the secretary of state shall consider the signature of the mayor of any city which has approved said petition as herein provided as the signature of one landowner and shall include the stated acreage within said city as being represented by said signature in computing the acreage within the district. The secretary of state shall endorse his findings and the date thereof on the face of the petition, and shall notify, in writing, the person designated in the petition as the acting chairman of the steering committee of his findings.

**History:** L. 1953, ch. 477, § 5; L. 1955, ch. 201, § 4; L. 1957, ch. 226, § 2; L. 1959, ch. 172, § 4; L. 1961, ch. 193, § 5; July 1.

**24-1206. Sufficient petition transmitted to chief engineer; investigation, report and approval or disapproval; approval required, when; transmittal of approval to secretary of state and to chairperson of steering committee.** (a) If the secretary of state finds the petition to be sufficient as to form and the number and qualifications of the

petitioners, the secretary of state shall prepare a certified copy of the petition and transmit it to the chief engineer within five days after the secretary of state's determination of sufficiency.

(b) Upon receipt of a certified copy of a petition transmitted pursuant to subsection (a) or a certified copy of a resolution transmitted pursuant to K.S.A. 24-1203a, the chief engineer shall institute an investigation of each proposed district, its territory and purposes and, within 90 days after receipt of such copy shall transmit a written report of the chief engineer's findings on the petition or resolution, together with the chief engineer's written approval or disapproval of the petition or resolution, to the secretary of state and the acting chairperson of the steering committee named in the petition or resolution.

(c) The chief engineer shall approve the petition or resolution if the chief engineer finds and discloses by the chief engineer's report that:

(1) The lands proposed to be included in each district comprise substantially a watershed or two or more adjoining watersheds;

(2) each proposed district would not include lands in any existing watershed district;

(3) the statement of purposes contained in the petition or resolution conforms with the intents and purposes of this act;

(4) the lands within each proposed district or part thereof, are subject to erosion, floodwater or sediment damage or would be benefited by the construction of works for the conservation, development, utilization or disposal of water;

(5) the boundary of each proposed district is defined, as far as practicable, so as to include all quarter-quarter sections of which more than 1/2 of each is within the watershed;

(6) the downstream limit of each proposed district is established with due regard to the location of highways and railroads and the location and character of existing works of improvement, the boundaries of any organized levee, drainage, irrigation and watershed districts, and the physical characteristics of and the probable relative effect of the operation of the proposed district upon any flood plane area common to both the stream or watercourse and any other stream or watercourse; and

(7) the map attached to the petition or resolution and the description of lands proposed to be included in each district are adequate and correct, except the chief engineer, in the chief engineer's report, may

make any minor corrections with respect to the map or the description of lands proposed to be included in the district to make such map and description of lands conform to the map previously prepared in consultation with the chief engineer and such corrections shall thereupon become a part of the petition or resolution and be deemed effective without a recirculation of the corrected petition among the landowners or amendment of the resolution.

(d) If the chief engineer approves the petition or resolution, the chief engineer shall transmit a certified copy of the chief engineer's report to the secretary of state and to the chairperson of the steering committee of the district.

**History:** L. 1953, ch. 477, § 6; L. 1957, ch. 226, § 3; L. 1959, ch. 172, § 5; L. 1961, ch. 193, § 6; L. 1995, ch. 210, § 6; May 4.

**24-1207. Meeting of steering committee; notice; election of board of directors; officers; election on organization of district; voting places and election procedures; certification of results to secretary of state; certificate of incorporation, issuance and recordation, when; actions attacking**

**incorporation, limitations.** (a) Within 10 days after receipt of a certified copy of the chief engineer's report approving the petition or resolution, or the petition or resolution as amended or revised by the chief engineer, the chairperson of the steering committee of the proposed district shall call a meeting of the committee by mailing a written notice fixing the time and place of such meeting to each member of the committee at least five days in advance of the time so fixed, unless such notice is duly waived. The committee shall meet at the time and place fixed in the notice for the purpose of electing from their number a board of directors consistent with the number set out in the petition, and this board of directors, after being duly elected, shall elect from their number a president, vice-president, secretary and treasurer, except that in a district having only three directors, the board shall elect one person to hold the offices of secretary and treasurer. The board, by resolution, shall provide for the calling of an election of the qualified voters of the district for the purpose of submitting the question of whether the district should be organized and created in accordance with the petition or resolution, or the petition or resolution as amended or revised by the chief engineer.

(b) The board shall designate one or more centrally located voting places within the proposed district, but if the territory of the proposed district lies in more than one county, at least one voting place shall be designated within each county of the proposed district, and shall name and appoint three judges and two clerks for each voting place designated, which judges and clerks shall take an oath to faithfully perform their duties as judges and clerks, respectively, and shall each receive compensation of \$8 per day for their services. The board shall cause a notice of the special election to be published for three consecutive weeks in a newspaper of general circulation within the proposed district, the first publication to be not less than 21 days prior to such election. If the proposed district lies in more than one county, a similar notice shall be published in a newspaper of general circulation in each of the counties in which a part of the proposed district is located. The notice shall set forth the time and place or places of holding the election and the proposition to be voted on, shall contain a copy of the petition or resolution, or the amended or revised petition or resolution (omitting the map attached thereto as an exhibit) and shall be signed by the president and attested by the secretary of the board. Any qualified voter shall be entitled to vote at such election. The vote at such election shall be by ballot, and such ballot shall comply with the usual requirements for an official ballot for public office insofar as such requirements are applicable thereto. Upon such ballot shall be printed the proposition submitted, preceded by the words, "Shall the following be adopted?" and followed by the words "To vote in favor of the proposition make a cross \* mark in the square after the word 'Yes'" "To vote against the proposition make a cross \* mark in the square after the word 'No.'"

(c) Returns from the election shall be made to the board of directors who shall canvass the votes cast at the election on the second Friday following the date of the election. The board shall immediately certify the results of the election to the secretary of state. If a majority of those voting on the proposition voted in favor of the organization and creation of the district upon the petition or resolution, or amended or revised petition or resolution, the secretary of state shall thereupon issue to the board of directors a certificate of incorporation for the district, which shall be filed of record in the office of the register of deeds of each county in which all or a portion of the

district lies. Upon such recordation of the certificate of incorporation the district shall be authorized to function in accordance with the provision of this act and its certificate of incorporation. If a majority of those voting on the proposition voted against the organization and creation of the district, the secretary of state shall endorse that fact on the face of the petition or resolution and the proceedings shall be closed. No action attacking the legal incorporation of any watershed district organized under this section shall be maintained unless filed within 90 days after the issuance of the certificate of incorporation for such district by the secretary of state, nor shall the alleged illegality of the incorporation of any such watershed district be interposed as a defense to any action brought after such time.

**History:** L. 1953, ch. 477, § 7; L. 1955, ch. 201, § 5; L. 1957, ch. 226, § 4; L. 1959, ch. 172, § 6; L. 1961, ch. 193, § 7; L. 1995, ch. 210, § 7; May 4.

#### **Attorney General's Opinions:**

Formation of watershed districts; authority of secretary of state. 93-85.

**24-1208. Payment of costs and expenses when petition or resolution is disapproved by engineer or defeated by voters; tax levy.** If the organization of the proposed district is defeated at the special election or if the petition or resolution is disapproved by the chief engineer, the board of directors or steering committee named in the petition or resolution shall continue to function in a limited capacity for the purposes hereinafter set forth in this action. Such board or steering committee shall determine the amount of money necessary to pay all of the costs and expenses incurred in the preparation and filing of the petition or resolution and in the conduct of the special election and shall certify a statement of such amount to the county clerk of each county in which the proposed district was to be located. Such county clerks shall thereupon ascertain the total assessed valuation of all taxable tangible property in their respective counties within the proposed district and certify such valuation to the county clerk of the county in which the acting chairperson of the board or steering committee of the proposed district resides.

Such county clerk shall determine the levy necessary to be spread against the taxable tangible property in the entire proposed district in order to raise funds sufficient to pay the amount set forth in

the statement and shall certify such levy to the county clerk of the other counties in which a portion of the proposed district is located. Each of the county clerks shall then cause such levy to be extended against the taxable tangible property lying within the boundaries of the proposed district and within the clerk's county. The county treasurers of the respective counties involved shall remit the funds raised by such levy in their counties to the county treasurer of the county in which the acting chairperson of the board or steering committee resides. Such treasurer shall hold such funds and shall honor warrants drawn upon such funds by the acting chairperson of the board or steering committee and countersigned by the acting secretary of the board or steering committee in payment of the costs and expenses incurred in the proposed organization of the district and shown on the aforementioned statement of expenses.

**History:** L. 1953, ch. 477, § 8; L. 1959, ch. 172, § 7; L. 1995, ch. 210, § 8; May 4.

#### **Attorney General's Opinions:**

Watershed districts; judicial actions affecting conservation easements; modification or termination by court. 93-76.

### **GENERAL POWERS AND DUTIES OF DISTRICTS**

**24-1209. Corporate powers and duties.** Each watershed district incorporated under the provisions of this act shall be a body politic and corporate and shall have the power:

*First.* To adopt a seal.

*Second.* To sue and be sued by its corporate name.

*Third.* To purchase, hold, sell and convey land and personal property and to execute such contracts as may, by its board of directors, be deemed necessary or convenient to enable it to properly carry out the purpose for which organized.

*Fourth.* To construct, improve, maintain and operate works of improvement including such facilities and appurtenances as necessary for the conservation of soil, prevention of floods, disposal of water and the conservation, development and utilization of water for domestic, municipal, agricultural, industrial, recreational purposes and such other uses as may be authorized by the provisions of K.S.A. 82a-701 to 82a-725, inclusive, and any amendments thereto; and in any case where the construction, improvement or operation of such

works causes the substantial displacement of a wildlife habitat and when required by the soil conservation service of the United States department of agriculture as a condition precedent to the release of federal funds for such works, to acquire land for the purpose of restoring such wildlife habitat. The power of eminent domain shall not be used for any such acquisition.

*Fifth.* To operate or lease any and all district properties and facilities associated with the use of water and to collect reasonable fees, rentals, tolls, and charges for the use of such facilities, said revenue to be placed in the maintenance fund of the district. Where the property is leased the lessee or anyone authorized to collect such fees, rentals, tolls and charges shall conform to a schedule approved by the board of directors of the district.

*Sixth.* To employ such professional services and other assistance as is, by its board of directors, deemed essential. Soil conservation engineering services may be used whenever available.

*Seventh.* To acquire personal property by gift or purchase.

*Eighth.* To acquire land and interests in land by gift, purchase, exchange or eminent domain; such power of eminent domain to be exercised within or without the boundaries of the district in like manner as provided by K.S.A. 26-501 to 26-516, inclusive, or any amendments thereto.

*Ninth.* To levy taxes and assessments, issue bonds and incur indebtedness within the limitations prescribed by this act.

*Tenth.* To cooperate and contract with persons, firms, associations, partnerships and private corporations, and with other watershed districts, drainage districts, and cities of all classes of this state, and with drainage districts, watershed districts, or other public corporations organized for similar purposes in any adjoining state and with other local, state and federal governmental agencies and to enter into co-operative contracts and agreements with any such districts, corporations or agencies.

*Eleventh.* (a) To take appropriate actions to extend and transfer the territory of the district, receive territory transferred from other districts, and dissolve all or a portion of the district as provided for in this act; (b) to merge with adjoining watershed districts, subject to approval of a majority of the qualified voters voting on the proposition in each of the districts proposing to merge.

*Twelfth.* To select a residence or home office for the watershed district, which shall be at a place in a county in which the watershed district or any part thereof is located and may be either within or without the watershed district as may be designated by the board of directors. The board shall thereupon designate the county in which said residence or home office is located as the official county for the filing of all official acts and levies. After an official county has been so designated, said county designation shall not be changed even though the residence or home office of said watershed district may be changed at a later date.

**History:** L. 1953, ch. 477, § 9; L. 1955, ch. 201, § 6; L. 1957, ch. 226, § 5; L. 1959, ch. 172, § 8; L. 1961, ch. 193, § 8; L. 1963, ch. 234, § 69; L. 1976, ch. 175, § 1; July 1.

#### **Attorney General's Opinions:**

Retention of counsel for tax planning matters. 86-117.

Assignment of liability for damages caused by works of improvement. 86-158.

Use of watershed district funds. 87-85. (See 87-99.)

Watershed district funds may be used to improve a road only if a direct and exclusive benefit to district and no other governmental entity is responsible for road. 87-99. (See 87-85.)

Sale or transfer of watershed district property to a governmental entity for recreational purposes is permissible. 87-122.

Watershed districts; taxation and bonded indebtedness; use of funds. 92-39.

Use of district funds to administer and cost-share water quality projects. 98-52.

### **GOVERNING BODY**

**24-1210. Directors; number; terms; expenses.** All powers granted to watershed districts incorporated under the provisions of this act shall be exercised by a board of directors which shall be composed of any odd number and specified in the petition for creation of the district, of qualified voters of the district. Such



board shall be composed of not less than three and not more than 15 qualified voters. Boards in existence on the effective date of this act consisting of more than 15 members shall determine the number of board members, which in no case shall exceed the current number of board members. At least one director shall be selected from each subwatershed located within the district. Each director shall serve for a term of three years, and until a successor is duly elected and qualified, except that one-third of the original directors designated in the petition for organization of the district shall serve for a term of one year, one-third for a term of two years, one-third for a term of three years, from the date the certificate of incorporation is filed of record in the office of the register of deeds of each county in which territory of the district is located. Such directors shall serve without compensation, but shall be allowed actual and necessary expenses incurred in the performance of their official duties.

**History:** L. 1953, ch. 477, § 10; L. 1955, ch. 201, § 7; L. 1987, ch. 122, § 2; July 1.

**24-1211. Election of directors at annual meeting; report of financial condition, projects and activities; notice and conduct of elections; vacancies; changes in number of directors or date of annual meeting; notice; procedure.** In not less than 12 months, nor more than 13 months after the recording of the certificates of incorporation, and annually thereafter, a meeting shall be held for the election of directors whose terms expire and also to render a report on the financial condition and activities of the district including the estimated construction date of all proposed projects to be initiated within the next five years and the board's determination as to whether each of these projects is still cost effective and in the current public interest. Notice of the annual meeting shall be given at least 10 days prior to the date thereof by one publication in a newspaper of general circulation in each of the counties of which said watershed district is a part. Elections shall be by ballot. Qualified voters in attendance shall be entitled to vote at any such meeting. The directors shall fill any vacancy occurring on the board prior to the expiration of the term of any director by electing a substitute director to serve for the unexpired term.

The number of directors of a district or the date of the annual meeting, or both, may be changed at an annual meeting if notice of the proposition of making

such change or changes is given at the annual meeting immediately preceding the annual meeting at which such change or changes are considered. If the number of directors is proposed to be changed, the proposition shall be introduced in the same manner as other items of business and shall clearly show the changes in representation of subwatersheds, if any, and in the length of terms of the directors. It shall be the duty of the board of directors to include the proposition in the notice of the annual meeting at which such changes are being considered. If a majority of those voting are favorable, the election of directors shall be in conformance with the adopted proposal and all powers shall be exercised by the newly constituted board beginning immediately after the annual meeting. Copies of the minutes of the annual meeting and report on the financial condition and activities of the district shall be furnished to the state conservation commission.

**History:** L. 1953, ch. 477, § 11; L. 1955, ch. 201, § 8; L. 1959, ch. 172, § 9; L. 1961, ch. 193, § 9; L. 1987, ch. 122, § 3; July 1.

**Attorney General's Opinions:**

Use of absentee ballots or voter proxy in election of watershed district electors. 86-86.

Watershed districts; annual reports; evaluation of projects; "public interest" defined. 88-20.

**24-1212. Open meetings of directors; notice; quorum.** Regular meetings of the board of directors shall be held no less than once each quarter on such day and place as is selected by the board of directors. Notice of such meeting shall be mailed to each director at least five days prior to the date thereof, and special meetings may be held at any time upon waiver of notice of such meeting by all directors or may be called by the president or any two directors at any time. Notice in writing, signed by the persons calling any special meeting, shall be mailed to each director at least two days prior to the time fixed for such special meeting. A majority of the directors shall constitute a quorum for the transaction of business and in the absence of any of the duly elected officers of the district a quorum at any meeting may select a director to act as such officer pro tem. Each meeting of the board, whether regular or special, shall be open to the public. Copies of the minutes of regular and special meetings shall be furnished to the state conservation commission.

**History:** L. 1953, ch. 477, § 12; L. 1987, ch. 122, § 4; July 1.

**Attorney General's Opinion:**

Watershed districts; meetings of directors. 85-161.

**PROCEDURE FOR WATERSHED PROJECTS  
AND IMPROVEMENTS**

**24-1213. General plan, estimate of costs and information as to benefits; transmittal to chief engineer, when; open to public; report to directors.** Upon the incorporation of the watershed district the board shall cause work to be commenced on the preparation of a general plan of the district. In addition to the general plan there shall be prepared an estimate of costs as to installation, maintenance and operation of the proposed works and information as to the location and extent of areas that would be benefited by the proposed works. Upon completion of the general plan, estimates of costs and the information as to benefited areas, the board shall carefully examine and consider the same and if they approve the general plan, estimate of cost of proposed works and information on benefited areas, they shall transmit a complete copy thereof to the chief engineer and additional copies shall be made available to him upon request. Copies of such plans, estimates and information, in the office of the chief engineer shall be open to inspection by the public at all reasonable times.

The chief engineer shall examine and study said general plans as to: (1) Feasibility. (2) Co-ordination of the plan with any general plan for the watershed of which the district might be a part. (3) The safety of the works and improvements proposed. (4) Conformity with the intents and purposes of this act. The chief engineer shall transmit a written report of the results of his study and investigation to the board of directors which shall include any changes or modifications which he deems necessary and which shall include a specific approval or disapproval of the general plan.

**History:** L. 1953, ch. 477, § 13; L. 1957, ch. 226, § 6; L. 1961, ch. 193, § 10; July 1.

**Attorney General's Opinions:**

Use of district funds to administer and cost-share water quality projects. 98-52.

**24-1214. Financing proposed projects; methods; resolution as to costs; public hearing; notice, contents; appearances; written statement required; transmittal of written statements to chief engineer; adoption, modification or rejection of general plan or method of financing; official general plan and official method of financing; resubmissions, when.** Subject to the provisions of subsection (b) of K.S.A. 24-1203a, when the general plan is approved by the chief engineer the board, by resolution, shall propose that the cost to the district of all works contemplated in the plan be paid either by a general levy against all of the taxable tangible property located within the district, that such cost be paid by special assessment against lands within the district to be specially benefited by any of the proposed projects or that such cost be paid by both such general levy and special assessment, stating the portion proposed to be paid by each method. The board shall also set forth in the resolution any proposal to issue improvement bonds of the district to provide for the payment of all or any part of the cost to the district of proposed projects by installments instead of levying the entire tax or special assessment at one time.

The board shall thereupon fix a time and place either within or conveniently near the district for a public hearing upon the general plan and the resolution proposing a method of financing costs of the works contemplated in the plan. A notice of such hearing shall be given by one publication at least 20 days prior to the date fixed for the hearing, setting forth the time and place of hearing upon the plan and resolution, that a copy of the plan and resolution is available for public inspection in the office of the secretary of the district and that any electors or landowners desiring to be heard in the matter must file, in duplicate, with the secretary of the board at the secretary's office, at least five days before the date of the hearing, a written statement of their intent to appear at the hearing and the substance of the views they wish to express. Upon receipt of any such statements the secretary of the board shall immediately transmit one copy of the statements to the chief engineer. The chief engineer or the chief engineer's duly appointed representative may attend the hearing. At the hearing any elector or landowner who has duly filed a written statement shall be heard and may present information in support of the elector's or landowner's position in the matter. After hearing all such statements the board, by resolution,

shall adopt as official or reject the general plan and adopt as official or reject the proposed method of financing costs of the works contemplated in the plan or determine that the general plan or the proposed method of financing or both should be modified and notify the chief engineer of the board's action. If it is determined that the general plan should be modified, any proposed changes approved by the board shall be incorporated in a modified general plan which shall be submitted to the chief engineer for further consideration.

The chief engineer shall review the modified plan and shall transmit a supplemental written report of the results of the chief engineer's study and investigation to the board, including the chief engineer's written approval or disapproval of the modified general plan. If the modified general plan is approved by the chief engineer, the board, by resolution, shall adopt the modified plan as the official general plan of the district and notify the chief engineer of the board's action. If it is determined that the proposed method of financing should be modified, the board shall give consideration to the the modified method of financing and, following adoption of the general plan or an approved modification thereof, the board, by further resolution setting forth such modified method of financing, shall adopt it as the official method of the district for financing costs of the works contemplated in the official general plan. If a board is unable to carry out a general plan because of disapproval of a bond issue at an election or because insufficient funds have been provided, they may reconsider the general plan or the method of financing, or both, and by following the procedure hereinbefore set forth, resubmit a general plan or method of financing, or both.

**History:** L. 1953, ch. 477, § 14; L. 1961, ch. 193, § 11; L. 1995, ch. 210, § 9; May 4.

**Attorney General's Opinions:**

Watershed districts; structure maintenance fund; tax levies for no fund warrants and bonds. 92-116.

Use of district funds to administer and cost-share water quality projects. 98-52.

**24-1214a. Districts adopting general plan prior to April 1, 1961; method of financing; procedure.**

Watershed districts which have adopted a general plan prior to April 1, 1961, but have not adopted by

resolution a method of financing may follow the procedure set forth in sections 24-1213, and 24-1214 of the Kansas Statutes Annotated in the adoption of a resolution of financing and proceed forthwith to carry out the proposed works of improvements.

**History:** L. 1961, ch. 193, § 12; July 1.

**24-1215. Approval of bond issue by qualified voters of district required; notice; election procedures; tax levies for financing costs; resolution, publication; protest petition; election.**

When any general plan and resolution of financing has been finally adopted by the board, in accordance with the procedure set forth in K.S.A. 24-1214 and said resolution provides that all or any part of the cost of the works of improvement is to be paid by the issuance of improvement bonds of the entire district, it shall be the duty of the board to submit the question of approval of said bond issue to an election of the qualified voters of the district. Notice of the time and place and the purpose for which such election is to be held shall be given by one publication at least twenty (20) days prior to the date fixed for such election. Except as hereinbefore provided, the said special election shall be held and conducted in the manner prescribed for conducting and holding elections by K.S.A. 24-1207.

If the resolution of financing provides that all or any part of the cost of the works of improvement is to be paid by the issuance of improvement bonds to be paid by special assessment against the lands especially benefited by such project the board of directors shall proceed to determine the particular lands within the district upon which special assessments are to be levied and it shall be the duty of the board to submit the question of approval of the bond issue to an election of the owners of said lands. Notice of the time and place and the purpose for which such election is to be held shall be given by one publication at least twenty (20) days prior to the date of such election. Except as hereinbefore provided the said election shall be held and conducted in the manner prescribed for conducting and holding elections by K.S.A. 24-1207: *Provided, however,* That if it is proposed to issue improvement bonds to be paid partially by the entire district and partially by lands especially benefited, it shall be the duty of the board of directors to submit each question of approval separately as hereinbefore set forth: *Provided further,* That if said resolution of financing proposes that all costs to the district shall be borne by

a general tax levy and makes no provision for the issuance of bonds, and no election is thereupon held, it shall be the duty of the board to publish said resolution once in a newspaper of general circulation within the district and said resolution shall be in full force and effect thirty (30) days after said publication unless petitions signed by landowners of the district in a number in excess of twenty percent (20%) of the landowners as determined by the verified enumeration filed with the petition for organization are filed with the secretary of the board.

In the event such petitions are filed, it shall be the duty of the board to submit the question of adoption of said resolution to the qualified voters of the district. Notice of the time and place and the purpose for which such election is to be held shall be given by one publication at least twenty (20) days prior to the date for such election. Except as hereinbefore provided the said special election shall be held and conducted in the manner prescribed for conducting and holding elections by K.S.A. 24-1207.

**History:** L. 1953, ch. 477, § 15; L. 1955, ch. 201, § 9; L. 1957, ch. 266, § 7; L. 1959, ch. 172, § 10; L. 1961, ch. 193, § 13; July 1.

**24-1216. Order and procedure as to specific projects; surveys, plans, specifications and estimates of costs; filing with secretary of board; open to inspection; transmittal of approved plans to chief engineer, when; review of general plan; revisions of plan; report by chief engineer, requirements.** (a) Following the adoption of the general plan and adoption of the method of financing, the board of directors may determine the order in which specific projects contemplated by the general plan shall be undertaken and to cause accurate surveys of all work deemed necessary to be done and accurate estimates and calculations to be made by some competent engineer who shall prepare detailed construction plans and specifications therefor showing the location, amount, and character of work to be done and the estimated cost of right of way, construction, maintenance and operation, which plans, specifications, and estimates of costs shall be filed in the office of the secretary of the board and shall at all reasonable times be open to public inspection. The board shall carefully examine and consider the same and if they approve such plans, specifications and estimates of costs, they shall transmit a complete copy thereof to the chief engineer, who shall examine and study the plans and

specifications as to conformance to the general plan and other applicable state laws on water use and control and transmit a written report of the results of his study and investigation to the board which report shall include any changes or modifications which he deems necessary and which shall include a specific approval or disapproval of the plans and specifications.

(b) Ten years following approval of the general plan and every five years thereafter, the board shall review the general plan to determine if projects proposed to be undertaken by the district in its original plan are still feasible and in current public interest. A report of the review shall be given at a public meeting called for that purpose. This review is not required of watershed districts that have completed all the projects in the general plans.

Any revisions or amendments to the general plan shall be submitted to the chief engineer in the manner provided by K.S.A. 24-1213 and amendments thereto.

**History:** L. 1953, ch. 477, § 16; L. 1955, ch. 201, § 10; L. 1958, ch. 12, § 6 (Special Session); L. 1959, ch. 172, § 11; L. 1961, ch. 193, § 14; L. 1987, ch. 122, § 5; July 1.

**24-1217. Computation of special assessments; appraisal and apportionment; resolution; limitations; hearing of complaints; notice; alterations; resolution fixing assessments; notice to landowners; bonds and levies, when.** If the resolution of financing provided for by K.S.A. 24-1216 [\*], and amendments thereto, provides that all or any part of the cost of the works contemplated is to be paid by special assessment against lands especially benefited by such project, the board shall appoint three appraisers who have no vested interests in the project and who shall recommend apportionment of the special assessment to the tracts of land subject to such special assessment. The appraisers shall have access to all available engineering reports and data pertaining to the works contemplated and may request such additional engineering data or counsel as found necessary to carry out their duties. The appraisers shall take an oath to fairly and impartially appraise the benefits accruing to each tract of land and shall recommend the apportionment of the assessment according to the relative benefits to be received by the several tracts of land subject to assessment, and shall make written reports of their findings to the board.

Upon receiving the report, the board shall prepare a resolution which shall contain a list of the tracts of land found to be especially benefited and the amount of assessment to be levied against each such tract. No such assessment against any tract of land shall exceed the estimated benefits to such land by such project. Such tracts of land shall be legally described and the names of the owners thereof shall be set forth beside the description of each tract so listed. After adopting such resolution, the board shall fix a time and place for hearing any complaint that may be made as to the benefit to any tract of land appraised as aforesaid, a notice of which hearing shall be given by the secretary by one publication at least 10 days prior to the date set for the hearing. The board, at the special hearing, may alter the benefit to any tract of land if, in its judgment, the same has been appraised too high or too low.

The board, immediately thereafter, shall pass a resolution fixing the benefit assessment as to each tract of ground and providing for the assessment thereof which assessment may be spread over a period of not to exceed 20 years and shall hold good for all installments. The board, immediately thereafter, shall cause a written notice to be mailed to the owner or owners of each tract of ground assessed of the amount of the assessment which notice shall state that if the amount is not paid in full within 30 days from the date of notice, bonds will be issued and that an assessment will be levied annually against such tract of ground for a period of not to exceed 20 years in an amount sufficient to pay the total assessment plus the interest due on the bonds.

No suit to set aside the assessment shall be brought after the expiration of 90 days from the date of the notice. The amount levied against each tract of ground to pay for the bonds falling due each year and the interest thereon shall be levied, certified to the proper county clerk and collected the same as other taxes.

**History:** L. 1953, ch. 477, § 17; L. 1955, ch. 201, § 11; L. 1957, ch. 226, § 8; L. 1959, ch. 172, § 12; L. 1961, ch. 193, § 15; L. 1987, ch. 122, § 6; July 1.

**24-1218. Right of entry upon lands in connection with work of district; damages.** The board of directors and its representatives and employees, including engineers and contractors and their employees, shall have the right and authority to enter upon private lands within or without the boundaries

of the district for the purpose of conducting tests, surveys and other work incidental to the preparation of plans, maps, profiles and reports in connection with any work or proposed work of the district. The district shall be liable for any damages caused by such entry. Charges for damages shall be approved, modified, or rejected within 60 days following receipt of a documented accounting of such damages.

**History:** L. 1953, ch. 477, § 18; L. 1987, ch. 122, § 7; July 1.

## **TAXATION AND BONDED INDEBTEDNESS**

### **24-1219. No-fund warrants for initial expenses; annual tax levies for general fund expenses; increased levies, procedure; tax levies for no-fund warrants and bonds; structure maintenance fund.**

(a) The district board may issue no-fund warrants to pay for initial organizational, engineering, legal and administrative expenses of the district except that the amount so issued shall not exceed the product of two mills times the assessed valuation of the taxable tangible property within the district. Such warrants shall be issued, bear interest and be retired in accordance with the provisions of K.S.A. 79-2940, and amendments thereto, except that the approval of the state board of tax appeals shall not be required. Whenever warrants have been issued under this section, the board shall make a tax levy at the first tax levying period, after such warrants are issued, sufficient to pay such warrants and interest.

(b) Following incorporation of the district by the secretary of state, the board shall have authority to levy annually a tax of not to exceed two mills to create a general fund for the payment of engineering, legal, clerical, land and interests in land, installation maintenance, operation and other administrative expenses and such tax may be against all of the taxable, tangible property of the district. Whenever the board desires to increase the mill levy for such purposes above two mills, it may adopt a resolution declaring it necessary to increase such annual levy in an amount which together with the current levy shall not exceed a total of four mills. Any such resolution shall state the total amount of the tax to be levied and shall be published once each week for two consecutive weeks in a newspaper of general circulation in the district. Whereupon such annual levy in an amount not to exceed the amount stated in the resolution may be made for the ensuing budget year and each successive budget year unless a

petition requesting an election upon the proposition to increase the tax levy in excess of the current tax levy, signed by not less than 5% of the qualified electors in the district is filed with the county election officer within 60 days following the date of the last publication of the resolution. In the event a valid petition is filed, no such increased levy shall be made without such proposition having been submitted to and having been approved by a majority of the qualified electors voting at an election called and held thereon. All such elections shall be called and held in the manner prescribed for the calling and holding of elections upon the question of the issuance of bonds under the general bond law.

(c) There is hereby authorized to be established in the watershed districts of the state a fund which shall be called the structure maintenance fund. The fund shall consist of moneys deposited therein from funds received according to provisions of the watershed district law. The amount of funds that may be deposited annually shall be a maximum of .35% of the construction cost of the structure. Moneys in the structure maintenance fund may be used for the purpose of engineering, reconstruction and other required maintenance and other expenses relating to the maintenance of a structure. The watershed board of directors is hereby authorized to invest any portion of the structure maintenance fund, which is not currently needed, in investments authorized by K.S.A. 12-1675 and amendments thereto. All interest received on any such investment shall be credited to the structure maintenance fund.

(d) The district board shall have authority to levy a tax, after improvement bonds have been issued in accordance with K.S.A. 24-1214, 24-1215 and 24-1220, and amendments thereto, sufficient to pay such bonds and interest.

**History:** L. 1953, ch. 477, § 19; L. 1955, ch. 201, § 12; L. 1961, ch. 193, § 16; L. 1985, ch. 117, § 1; L. 1987, ch. 122, § 8; L. 1990, ch. 119, § 1; May 3.

#### **Attorney General's Opinions:**

Use of watershed district funds. 87-85. (See 87-99.)

Watershed district funds may be used to improve a road only if a direct and exclusive benefit to district and no other governmental entity is responsible for road. 87-99. (See 87-85.)

No-fund warrants must make tax levy at first levying period after issuance sufficient to pay warrants and interest. 87-134.

KOMA-applicability or rural water districts. 88-97.

Watershed districts; taxation and bonded indebtedness; use of funds. 92-39.

Watershed districts; structure maintenance fund; tax levies for no fund warrants and bonds. 92-116.

**24-1220. Improvement bonds for works of improvement; terms; how payable; limitation on bonded indebtedness.** Whenever improvement bonds have been authorized for any works of improvement in accordance with the provisions of K.S.A. 24-1214 and 24-1215, the board shall proceed to issue improvement bonds of the district. Said bonds shall be issued to mature in not more than thirty (30) annual installments of approximately equal amounts each year over a period of not to exceed thirty (30) years. Said bonds shall bear interest at a rate not to exceed the maximum rate of interest prescribed by K.S.A. 10-1009, payable semi-annually or at such time as may be fixed by the terms of the resolution authorizing the issuance thereof.

Each bond shall specify the date of its separate maturity and shall be in such denominations as the district board shall determine, but at no time shall the aggregate bonded indebtedness of the district exceed ten percent (10%) of the assessed valuation of all of the taxable tangible property within the district as shown by the last finding of the proper board of equalization.

**History:** L. 1953, ch. 477, § 20; L. 1955, ch. 201, § 13; L. 1957, ch. 226, § 9; L. 1961, ch. 193, § 17; L. 1970, ch. 64, § 71; L. 1978, ch. 99, § 30; April 25.

**24-1221. Act supplemental to other laws.** This act shall be deemed to be supplemental to existing laws relating to drainage districts, flood control, irrigation, soil conservation and related matters.

**History:** L. 1953, ch. 477, § 21; June 30.

## TRANSFER AND EXTENSION OF TERRITORY

**24-1222. Chief engineer authorized to transfer territory from one district to another, when; petition.** The chief engineer of the division of water resources shall have power upon a proper petition being presented for that purpose to transfer territory from one watershed district, organized and incorporated under the provisions of article 12 of chapter 24 of the Kansas Statutes Annotated or any amendments thereto, to any other adjacent watershed district so organized and incorporated.

**History:** L. 1958, ch. 12, § 1 (Special Session); May 8.

**24-1223. Same; contents of petition.** The petition for transfer of territory from one watershed district to another shall be addressed to the chief engineer of the division of water resources and shall: (a) Describe the territory to be transferred by section numbers and fractions thereof, and other platted areas as appropriate; (b) state from what watershed district and to what watershed district such transfer is sought; (c) show that the proposed transfer has been recommended by each of the watershed districts affected by resolution duly adopted by the board of directors of each district; and (d) state that the proposed transfer of territory will result in more efficient operation of both districts and will be conducive to the public convenience and welfare. Such petition shall contain a prayer that the territory described therein be transferred from one watershed district named therein to another watershed district named therein.

**History:** L. 1958, ch. 12, § 2 (Special Session); May 8.

**24-1224. Same; presentment of petition to chief engineer; notice and hearing.** Whenever a petition in conformity to K.S.A. 24-1223 signed by the board of directors of both of the affected watershed districts shall be presented to the chief engineer of the division of water resources, it shall be the duty of the chief engineer forthwith to fix a time for the hearing of such petition and to give notice thereof which shall be published by the affected watershed districts at their expense at least five (5) days before the date fixed for the hearing in one or more newspapers published and of general circulation in the county or counties in which the affected watershed districts are located.

**History:** L. 1958, ch. 12, § 3 (Special Session); May 8.

**24-1225. Same; findings, decisions and declarations of chief engineer.** At the time set for the hearing of the petition, as provided in K.S.A. 24-1224, it shall be the duty of the chief engineer to first ascertain and determine whether notice has been given of the time of hearing, as required by this act, and, if it shall be determined that such notice has been given, to make a declaration and finding of this fact; and thereupon he shall hear all persons in favor of, or opposed to, the granting of the prayer of said petition, and he shall hear all other evidence that he may deem necessary for the purpose of ascertaining whether the statements in said petition are true; and, if upon such hearing it shall be found that such petition is in conformity to the requirements of this act and that the allegations thereof are true, then the chief engineer shall make a finding and decision to that effect and shall thereupon declare the territories described in the petition to be detached from the one watershed district, naming it, and to be attached to the other watershed district, naming it, and shall fix the date that such transfer shall become effective; and if the chief engineer upon such hearing finds that such petition is not in conformity to this act, or that the statements in such petition are not true, or that said transfer should not be made, then he shall make a finding and decision to that effect and reject that petition. Such affirmative decision and order of the chief engineer may provide for the transfer of all or part of the territory described in the petition but shall not include any territory not so described.

**History:** L. 1958, ch. 12, § 4 (Special Session); May 8.

**24-1226. Same; liability for outstanding bonded indebtedness.** The balance of bonded indebtedness including temporary notes outstanding shall remain a charge upon the territory transferred under the provisions of this act in accordance with the applicable provisions of K.S.A. 10-119, and any amendments thereto. The territory so transferred shall not be liable for any bonded debt including temporary notes and no-fund warrants existing at the time of such transfer of the district of which it shall become a part.

**History:** L. 1958, ch. 12, § 5 (Special Session); May 8.

**24-1227. Extension of territory of district; petition, contents; approval of chief engineer.** The secretary of state, with the approval of the chief engineer of the division of water resources, shall have power, upon proper petition being presented for that purpose to extend the territory of any watershed district organized and incorporated under the provision of article 12 of chapter 24 of the Kansas Statutes Annotated or any amendments thereto. The petition to extend the territory of any watershed district shall be addressed to the secretary of state, and shall: (a) Describe the territory to be annexed by section numbers and fractions thereof, and other platted areas as appropriate, except as provided for in K.S.A. 24-1205, as amended for the inclusion of incorporated cities; (b) state to what watershed district annexation is sought; (c) have a map attached thereto as an exhibit, and incorporated therein by reference, showing said watershed district and the lands proposed to be annexed; and (d) show that the proposed extension of territory has been recommended by the watershed district concerned by resolution duly adopted by its board.

The petition shall be circulated, signed, filed and transmitted in the manner prescribed for the original organization of a watershed district in K.S.A. 24-1203, 24-1205, 24-1206, and 24-1207, or any amendments thereto, and similar action shall be taken as prescribed in said section 24-1206, in so far as same is applicable.

**History:** L. 1961, ch. 193, § 18; July 1.

## **COMPLETE OR PARTIAL DISSOLUTION**

**24-1228. Dissolution of district, when; resolution; petition; election; certificate of dissolution.**

Whenever a watershed district has been organized and incorporated under the provisions of article 12 of chapter 24 of the Kansas Statutes Annotated, and amendments thereto, for more than eight years and has not adopted a general plan of work and projects to be undertaken by the district, constructed or contracted to construct any works of improvement or incurred any continuing obligations for maintenance of any works of improvement, or when such a district has been organized and incorporated under such provisions for more than four years and has not made substantial progress toward a general plan of work and projects to be undertaken by the district, the board of such district may, by resolution adopted by a 2/3 vote of all members of such board present and

voting, but in no event less than a majority of all members of such board at a special meeting of such board called for that purpose, and notice of which special meeting shall specify the purpose for which the meeting is to be called, provide for the calling of an election of the qualified voters of such district for the purpose of determining whether such district shall be dissolved; and the board shall provide for the calling of such an election if written petitions therefor signed by 20% of the landowners of such district, as shown by a verified enumeration of such landowners by a landowner of such district, are filed with the secretary of such board. Notwithstanding any provision of this section, the Middle Creek joint watershed district No. 50 may be dissolved in the same manner and procedure as provided herein.

The election to determine whether the district shall be dissolved shall be held and conducted in the same manner as provided by K.S.A. 24-1207, and amendments thereto, insofar as such provisions can be made applicable. If a majority of those voting on the proposition voted in favor of dissolution of the district, the board shall immediately certify the results of such election to the secretary of state, and the secretary of state shall thereupon issue and deliver to the secretary of such board a certificate of dissolution.

**History:** L. 1961, ch. 193, § 19; L. 1982, ch. 153, § 1; L. 2000, ch. 115, § 3; July 1.

**24-1229. Dissolution of portion of district; petition, contents; powers and duties of chief engineer; notice and hearing; evidence; findings, filing; certificate of dissolution; recordation; removal of director upon dissolution, effect.** The chief engineer of the division of water resources shall have power upon proper petition being presented for that purpose to dissolve a portion of a watershed district organized and incorporated under the provisions of article 12, chapter 24 of the Kansas Statutes Annotated, or any amendments thereto. The petition for dissolution of a portion of a watershed district shall be addressed to the chief engineer of the division of water resources and shall: (1) Describe the territory to be dissolved by section numbers and fractions thereof and other platted areas as appropriate; (2) contain a prayer that the territory described therein be dissolved from the watershed district, naming it; (3) show that the dissolution is being sought by either a majority of the board of the watershed district or a majority of the landowners in



the territory to be dissolved. Whenever a petition in conformity with this section is received by the chief engineer it shall be his duty forthwith to fix a time for the hearing of such petition and to give notice thereof which shall be published by the affected watershed district at their expense at least five (5) days before the date fixed for the hearing. It shall be the duty of the petitioners to show satisfactory evidence in support of the requested dissolution.

If after such hearing the chief engineer finds that the exclusion of territory described in the petition would leave within the district an area in conformance with the findings considered for the organization of a district as prescribed in K.S.A. 24-1206 and that the exclusion of the territory described in the petition will not substantially impair the effectiveness of a general plan of the district which has been approved by the chief engineer, he shall transmit a written report of his findings on the petition, together with his written approval or disapproval of the petition, to the secretary of state and the secretary of the board. Upon receipt of such report and approval of the petition the secretary of state shall thereupon issue and deliver to the secretary of the board a certificate of dissolution as to the lands which are to be excluded from the district fixing the effective date of such dissolution. A certified copy of the certificate of dissolution shall be recorded in the office of the register of deeds of each county in which any portion of the district is located: *Provided*, That, if the dissolution of a portion of the territory of a watershed district removes one or more directors from the constituted board, the remaining board of directors shall exercise the powers granted by this act until such time as changes in the board are proposed and effected in a manner prescribed by K.S.A. 24-1211.

**History:** L. 1961, ch. 193, § 20; July 1.

**24-1230. Notification of directors upon dissolution or partial dissolution of district; duties of secretary, treasurer and directors; effective date of dissolution; recordation of certificate of dissolution.** Upon receipt from the secretary of state of the certificate of dissolution of the watershed district or portion thereof under the provisions of this act, the secretary of the board of directors of said watershed district shall notify the directors of the watershed district of such certification.

The directors shall immediately pay all obligations of said district or portion thereof,

including all costs incurred by the district, the chief engineer and secretary of state in regard to the dissolution proceedings, and the treasurer shall thereupon distribute all moneys in his hands belonging to the district or portion thereof in the manner prescribed by this act, and immediately after making such distribution, the treasurer shall notify the secretary of such distribution. Upon receipt of such notification, the secretary of the district shall have the certificate of dissolution published once in a newspaper of general circulation, located in the county wherein the registered office of said watershed district is located, and proof of such publication shall be filed in the office of the secretary of state. The effective date of the dissolution, unless otherwise provided, shall be the date on which the proof of publication is filed in the office of the secretary of state, but in no event shall the date of dissolution be a date prior to the date of publication of the certificate of dissolution. A certified copy of said certificate of dissolution of said district or portion thereof shall also be recorded in the office of the register of deeds of each county in which any portion of the dissolved district is located.

**History:** L. 1961, ch. 193, § 21; July 1.

**24-1231. Disposition of funds of totally or partially disorganized district; duties of treasurer.**

Any funds of a watershed district which is totally disorganized and dissolved under the provisions of this act shall be apportioned and paid to the townships or cities located within or partly within the watershed district in the proportion which the assessed valuation of property in said watershed district located within the township or city bears to the total assessed valuation of the watershed district, based on equalized assessed valuations for the preceding year. Any funds of any watershed district which is partially disorganized and dissolved by the provisions of this act shall be apportioned and paid to the township or cities located within or partly within the dissolved portion of said watershed district and retained by the remaining portion of said watershed district in the proportions which the assessed valuation of property in the dissolved portion of said watershed district located within the township or city and the assessed value of property in the undissolved portion of said watershed district bear to the total assessed valuation of the watershed district based on equalized assessed valuations for the preceding year. The watershed district treasurer, upon notification of

receipt of a certificate of dissolution, shall immediately pay the amounts due each township or city or part thereof located within the district or the dissolved portion of said district to the treasurer of the township or to the city treasurer, as such township or city may be entitled to receive.

**History:** L. 1961, ch. 193, § 22; July 1.

**24-1232. Minutes and records of totally dissolved district filed with county clerk.** The secretary of any watershed district totally disorganized and dissolved under the provisions of this act shall file all minutes and records of said district with the county clerk of the county wherein the registered office of said watershed district is located.

**History:** L. 1961, ch. 193, § 23; July 1.

#### **VALIDATION OF DISTRICTS CREATED PRIOR TO JULY, 1961**

**24-1233. Districts established prior to July 1, 1961; confirmation and validation; procedure.** Whenever any watershed district has heretofore been created and established under the watershed district act and all amendments thereto, the chief engineer shall fix a time for a hearing upon the question of whether the lands within the district so created and established, or a part thereof, are subject to erosion, floodwater or sediment damage or would be benefited by the construction of works for the conservation, development, utilization or disposal of water, and shall give notice thereof at the expense of the district for three consecutive weeks in a newspaper or newspapers of general circulation within the district, the last publication to be at least five days before the day fixed for the hearing.

Such notice need not describe the boundaries of the district as previously created and established but shall state the name or general location thereof and shall state that a hearing will be held by the chief engineer on whether or not the lands within the district so created and established, or a part thereof, are subject to erosion, floodwater or sediment damage or would be benefited by the construction of works for the conservation, development, utilization or disposal of water, shall state the day and hour of the hearing, and that all persons may appear before the chief engineer at such hearing and be heard. If, after such hearing, the chief engineer determines that the lands within the district so created and established, or a part thereof, are subject to erosion,

floodwater or sediment damage or would be benefited by the construction of works for the conservation, development, utilization or disposal of water, the public necessity of such district is hereby declared, and the creation and establishment of such district shall be and is hereby ratified, validated and confirmed.

**History:** L. 1961, ch. 193, § 3; July 1.

#### **INTERMITTENT CLOSING OF ROADS SUBJECT TO FLOODING**

**24-1234. Intermittent closing of roads within watershed district; county roads; permit application; authority and duties of board of county commissioners; publication and notice.** (a) Upon application of the board of directors of any watershed district, the board of county commissioners of any county is hereby authorized to permit the intermittent closing of any county road located within the boundaries of such watershed district whenever in its judgment it is necessary to do so and when the road will be intermittently subject to inundation by flood waters retained by an approved watershed retention structure.

(b) Before any permit may be issued for the temporary inundation and closing of such a road, an application for such permit shall be made to the board of county commissioners by the watershed district. The application shall specify the road involved and shall request that a permit be granted to the district to allow the intermittent closing of the road.

(c) Upon receipt of such an application, the board of county commissioners shall give notice of the proposed action by publication once each week for two (2) consecutive weeks in a newspaper of general circulation in the county, and such notice shall contain a description of the places of beginning and the places of ending of such intermittent closing. In addition to such publication, the board of county commissioners shall give notice to all public utilities or common carriers having facilities located within the rights-of-way of any roads being closed by mailing copies of such notice to the offices of such public utilities or common carriers located within the county, or if no office is located within said county, then to the office of such utilities or common carriers located nearest to said county. Not sooner than three (3) days after the last publication and not sooner than fourteen (14) days after the mailing of such notice,

such board may issue its permit with respect to such road.

**History:** L. 1974, ch. 270, § 1; March 8.

**24-1235. Same; township roads; permit application; authority and duties of board of township trustees; publication and notice.** (a) Upon application of the board of directors of any watershed district, the board of trustees of any township is hereby authorized to permit the intermittent closing of any township road located within the boundaries of such watershed district whenever in its judgment it is necessary to do so and when the road will be intermittently subject to inundation by flood waters retained by an approved watershed retention structure.

(b) Before any permit may be issued for the temporary inundation and closing of such a road, an application for such permit shall be made to the board of trustees of the township involved by the watershed district. The application shall specify the road involved and shall request that a permit be granted to the district to allow the intermittent closing of the road.

(c) Upon receipt of such an application, the board of trustees shall give notice of the proposed action by publication once each week for two (2) consecutive weeks in a newspaper of general circulation in the county, and such notice shall contain a description of the places of beginning and the places of ending of such intermittent closing. In addition to such publication, the board of trustees shall give notice to all public utilities or common carriers having facilities located within the rights-of-way of any roads being closed by mailing copies of such notice to the offices of such public utilities or common carriers located within the county, or if no office is located within said county, then to the office of such utilities or common carriers located nearest to said county. Not sooner than three (3) days after the last publication and not sooner than fourteen (14) days after the mailing of such notice, such board may issue its permit with respect to such road.

**History:** L. 1974, ch. 270, § 2, March 8.

**24-1236. Same; county bridge and township road, 24-1234 applies; approval by board of township trustees.** If a proposed intermittent closing involves both a county bridge and a township road, then application shall be made to the board of county commissioners, and K.S.A. 24-1234 but not K.S.A.

24-1235 shall apply thereto. The board of county commissioners shall not issue a permit under this section, until it has received a written approval thereof by the board of township trustees involved.

**History:** L. 1974, ch. 270, § 3; March 8.

**24-1237. Same; costs of publication and notice; permit to require road markers.** All costs in connection with the publication and the notice shall be paid by the watershed district. In event the county or township board issues a permit allowing the intermittent closing of the road, then the permit shall contain a provision that the watershed district will cause suitable markers to be installed on the road to advise of the intermittent closing of the road.

**History:** L. 1974, ch. 270, § 4; March 8.

### **Article 13.-LITTLE ARKANSAS RIVER WATERSHED DISTRICT**

**24-1301 to 24-1305.**

**History:** L. 1957, ch. 227, §§ 1 to 5; Repealed, L. 1959, ch. 173, § 1; June 30.